

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiffs,

- against -

Crim. Dkt. No.  
10 CR 56 (RJS)

ZVI GOFFER,  
ARTHUR CUTILLO,  
JASON GOLDFARB,  
CRAIG DRIMAL,  
EMANUEL GOFFER,  
MICHAEL KIMELMAN, and  
DAVID PLATE,

Defendants.

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**DECLARATION OF CYNTHIA M. MONACO, ESQ.  
IN SUPPORT OF DEFENDANTS' JOINT MOTION  
TO DISMISS AND SUPPRESS**

Pursuant to 28 U.S.C. Section 1746, I hereby declare as follows:

1. I am an attorney duly admitted to practice before the Courts of the State of New York and the United States District Court for the Southern District of New York. I am counsel to Zvi Goffer in the above-captioned case.

2. I am fully familiar with the facts and circumstances of this case, and I base this Declaration on my personal knowledge and information and belief, along with my own investigation, inspection of documents and conversations with others, including other counsel in this case.

3. Accompanying this Declaration is Defendants' November 3, 2010 Memorandum of Law in support of Defendants' Joint Motion to Dismiss the Indictment (in its entirety, and separately addressing individual Counts); to Suppress the wiretaps (on various

grounds), or, alternatively, requesting the ordering of a *Franks* hearing and a hearing on improper disclosures by the Government; and for Other Relief. I incorporate herein by reference the factual statements contained in the accompanying November 3, 2010 Memorandum of Law, the factual bases of which are set forth therein. The accompanying Memorandum of Law references various "instant messages." Those instant messages were provided to defense counsel by both the government and the Securities and Exchange Commission and incorporated into a database which defense counsel has used to extract relevant instant messages. Statements made in the Memorandum of Law are based upon information derived from this database. In addition, the accompanying Memorandum of Law refers to several other exhibits the authenticity of which is clear from the documents themselves.

WHEREFORE, the Defendants respectfully request that this Court issue an Order for the relief requested in the accompanying Memorandum of Law.

AND granting such other and further relief as this Court deems necessary and proper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 3, 2010.

By:   
Cynthia M. Monaco

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